IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.7991 of 2004

Smt.Laxmibai N. Chintkindi & ors. Petitioners
Vs.
Ramesh V. Rane & ors. Respondents

Mr.Bharat Joshi for petitioners.
Mr.Chandrakant Chavan for Resp.No.1.

CORAM: B.H.MARLAPALLE,J.

July 13, 2006.

P.C.

. This petition has been filed on 14/9/2004 and it impugns the order dated 25/2/2003. The learned counsel for the respondents-plaintiffs states that after the impugned order was passed by the trial Court on 25/2/2003 the main suit itself came to be decree ex-parte on 9/10/2003 and, therefore, challenge to the impugned order would not survive.

. Defendants' remedy is either to apply for setting aside the ex-parte decree or to challenge the same by filing an appeal as may be permissible under the CPC. This petition would not survive any further. It has been pointed out by the petitioner that he applied for setting aside the ex-parte decree and the Notice of Motion No.993 of 2003 came to be dismissed on 7/8/2004 and the said order is already a

subject matter of challenge in the appeal before the Court of Small Causes.

. In these obtaining circumstances the challenge to the impugned order need not be gone into. The petition is disposed off as such.

(B.H.MARLAPALLE,J.)